

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

BRENDA L. LEE,

Plaintiff,

v.

ACTION NO. 2:18cv214

ANDREW SAUL,

Commissioner of Social Security,

Defendant.

FINAL ORDER

Plaintiff, Brenda L. Lee ("Plaintiff"), brought this action pursuant to 45 U.S.C. § 405(g) seeking judicial review of the decision by the Commissioner of the Social Security Administration denying her claim for disability insurance benefits under Title II of the Social Security Act. Specifically, Plaintiff raised multiple assignments of error in the decision of the Administrative Law Judge ("ALJ") that heard her claim, and argued that the ALJ's decision was not supported by substantial evidence and that the ALJ failed to properly apply binding Fourth Circuit precedent.

This matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72(b) of the Federal Rules of Civil Procedure, as well as Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation of

the Magistrate Judge was filed on June 19, 2019, recommending that Plaintiff's Motion for Summary Judgment, ECF No. 14, be denied; that the Defendant's Motion for Summary Judgment, ECF No. 25, be granted; and that the final decision of the Commissioner be affirmed.

By copy of the Report and Recommendation, ECF No. 28, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. On July 3, 2019, Plaintiff filed her objections to the Report and Recommendation. ECF No. 29. On July 17, 2019, Defendant responded to Plaintiff's objections. ECF No. 30.

Plaintiff's objections restate, nearly verbatim, all but one of the arguments she made in her motion for summary judgment. "[A] mere restatement of the arguments raised in the summary judgment filings does not constitute an 'objection' for the purposes of district court review." Nichols v. Colvin, 100 F. Supp. 3d 487, 497 (E.D. Va. 2015). Therefore, the Court is not required to conduct a de novo review of the findings in the Report and Recommendation with which Plaintiff disagrees. Epps v. Scaffolding Sols., LLC, No. 2:17cv562, 2019 U.S. Dist. LEXIS 96300, at *7 (E.D. Va. June 6, 2019); Bennett v. Zydron, No. 2:17cv92, 2017 U.S. Dist. LEXIS 154692, at *3-4 (E.D. Va. Sept. 21, 2017); Nichols, 100 F. Supp. 3d at 497-98. Rather, the Court need only review the Report and Recommendation using a "clear error"

standard. See Veney v. Astrue, 539 F. Supp. 2d 841, 844-46 (W.D. Va. 2008) (reviewing a report and recommendation for clear error because "[a]llowing a litigant to obtain de novo review of her entire case by merely reformatting an earlier brief as an objection 'mak[es] the initial reference to the magistrate useless'") (quoting Howard v. Secretary of HHS, 932 F.2d 505, 509 (6th Cir. 1991) (second alteration in original)).

Having reviewed the record, and finding no error, the Court hereby **ADOPTS** the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on June 19, 2019, and the decision of the Acting Commissioner is **AFFIRMED**, Defendant's motion for summary judgment, ECF No. 25, is **GRANTED**, and Plaintiff's motion for summary judgment, ECF No. 14, is **DENIED**. Therefore, Plaintiff's action is **DISMISSED WITH PREJUDICE**.

The parties are **ADVISED** that they may appeal from this Final Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within sixty (60) days from the date of this Final Order.

The Clerk shall forward a copy of this Final Order to counsel
of record for the parties.

IT IS SO ORDERED.

/s/ 

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
August 5, 2019